IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE SIDE, JURISDICTION
CRIMINAL WRIT PETITION NO.1727 OF 2005

Mukesh Dattatray Mali ...Petitioner.
Versus
The State of Maharashtra ...Respondent.

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Mr.Rajan Salvi, Advocate for the petitioner (appointed).
Mr.V.B.Konde-Deshmukh, APP, for the State.

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CORAM : D.G.DESHPANDE AND SMT.V.K.TAHILRAMANI, JJ.
DATED : MARCH 21, 2006.

P.C.:

. Heard Mr.Rajan Salvi learned Advocate for the petitioner and Mr.Konde-Deshmukh learned A.P.P. for the State.

2. Rule. By consent Rule is made returnable forthwith.

3. The petitioner had been released on furlough for two weeks on 1st February, 2002. Thus the petitioner had to surrender on 16th February, 2002. However, instead of surrendering on 16th February, 2002, the petitioner surrendered ten days late. On account of the petitioner's surrendering late, a show cause notice was issued to him for surrendering late and thereafter after

following due procedure, he was held guilty of prison offence. Punishment came to be awarded of forfeiture of two days of earned remission for each day of overstay i.e. twenty days of earned remission were deducted from the remission account of the petitioner for ten days' overstay.

4. It is the case of the petitioner that he had applied for extension of furlough leave as his wife was sick. However, as no reply was received in respect of his extension application, he surrendered on 26th February, 2002 before the prison authorities. We have noticed that, however, no certificate has been annexed by the petitioner in support of his contention that his wife was sick during that period. There is nothing to show that the said ground was a genuine ground. The prisons rules allows punishment of forfeiture of remission for upto five days for each day that the prisoner overstays beyond the period of furlough or parole. In the present case, the petitioner has, admittedly, overstayed ten days. It is seen that the prison authorities have not imposed the maximum punishment of cutting remission of five days for each day of overstay,

but, only two days remission for each day of overstay has been cut. The prisons rules also provides for much harsher forms of punishment like removing the prisoner indefinitely or for a specified period from the remission system or debarring him from the remission system for a certain number of years. It is to be noted that forfeiture of remission upto five days for each day of overstay falls in the category of minor punishment and not major punishment. As already observed by us, though a maximum period of five days of remission can be cut for each day of overstay, however only two days remission have been cut in the case of the petitioner for each day of overstay. The said punishment cannot be said to be harsh in the facts and circumstances of this case. It is perfectly just and reasonable. Hence, no interference is called for. Rule discharged.

(D.G.DESHPANDE, J.)

(SMT.V.K.TAHILRAMANI,J.)